The decision of the Court seems correct. Granting that possession as agent is not possession as pledgor when the intrusting is temporary, the possessions seem exactly as distinct when the intrusting is permanent; and there appears to be no way to distinguish the cases on principle. Story, Bailment, § 299; Jones, Pledge, §§ 40–44. The fact that there was no transfer of physical possession is immaterial; for the possession of the pledge after giving the property to the agent is constructive, and a constructive possession may clearly be raised by words alone. Examples of this are found in the cases under the Statute of Frauds, where an agreement by the seller to hold as agent for the buyer is held to constitute "actual receipt" by the buyer; and the case of the warehouseman agreeing to hold for a stranger instead of for the bailor. Again, the Supreme Court of Massachusetts, in the case of *Macomber* v. *Parker*, 14 Pick. 497, has held in a very able opinion that the owner of a brickyard can make a pledge of his bricks, valid as against his creditors, by agreeing to hold as agent for the pledgee, though no physical possession passes. These authorities, therefore, seem amply to justify the court in the principal case in the decision that there was a valid pledge without actual transfer of possession.

The second point arose on the contention of the creditors that the defendant was estopped to deny the ownership of the bank. It does not appear, however, that the creditors even heard of the paper before the failure; neither does it appear that they were influenced in the slightest degree by the fraud practised on the bank examiners. Therefore, as they never, to their detriment, acted on the implied representation that ownership was in the bank, the court was correct in holding that there was no ground for an estoppel.

GREAT AMERICAN JUDGES — SUPREME COURT OF THE UNITED STATES. — A far different country from the one which called Marshall to be Chief Justice was the one which called Taney to succeed Marshall, in 1836. And the man was different. Roger Brooke Taney was a native of Maryland. His first school was a log cabin, but he eventually gained a second-rate college education. A year of fox-hunting followed, and then he settled down to the law. Taney was not physically strong; he showed muscular weakness, and, though tall, was inclined to stoop; but underneath was strong vitality and a firm will. A powerful sense of duty carried him through a laborious and useful life. His success at the bar was immediate; yet he had his difficulties to meet. His timidity was painful, and was never wholly thrown aside. This forced him to discipline himself in a manner which perhaps led to the self-control which became a marked trait in him; and although he was a man of strong feelings, he seldom betrayed them except in his voice and in his eyes. In politics Taney was originally a Federalist; but upon the disintegration of parties after the war of 1812 he became a supporter of Jackson. Against his own inclinations he accepted the position of attorney-general in Jackson's cabinet, and was a full believer in the President's measures. The contest with the National Bank followed. Taney was made secretary of the treasury, and removed the public deposits from the bank, as Jackson wished. For this action he was much abused; but sentiment changed sufficiently to permit his appointment as Chief Justice of the Supreme Court of the United States in 1836. His appointment was no error; he was a great judge. The theory of the Con-

stitution began to change; States were allowed a broader police power; the control of interstate commerce was held not to be exclusive in Congress, and in the absence of federal legislation States were allowed to act. Chancellor Kent and Story were indeed disturbed; but the Chief Justice drew the line firmly and allowed no dangerous intrusion upon the powers of Congress. Upon circuit his services were valuable; he was dignified, courteous, practical. In a case once for the infringement of a copyright in a song, he had a witness sworn to sing to the jury the two songs in question, while he gravely suppressed the merriment in the court-room. His manner was kindly, though he seems to have lacked a sense of humor. In spite of his ability, however, Taney was several times, to say the least, impolitic. As often happens, integrity became stubbornness; and he would carry out his views with a logical severity which was often ill-timed and unnecessary. One instance of this failing has been already noted, the removal of the public funds from the National Bank; another instance was his opinion in the Dred Scott Case. But though his acts in these cases were ill-advised and unbalanced, they were never corrupt; his integrity was morbidly severe. Taney's last years were saddened by his conflict with the executive at the outbreak of the Civil War, when he felt that the Constitution was being set at naught. But there again his distorted constitutional views of the slavery question seemed to pervert his judgment; and while his theory in regard to the suspension of the writ of *habeas corpus* was right, he misapplied it; and placed his court in an undignified position by asserting its authority over the military forces at the seat of war and attempting to punish military authorities for contempt. Yet on most of the questions under the Constitution few men ever have added so much to our law as Taney.

While Taney was Chief Justice a vacancy occurred on the bench in 1851. To fill this vacancy President Fillmore appointed Benjamin Robbins Curtis of Massachusetts. He was a graduate of Harvard College, a cultivated man, and although hardly a scholar outside the sphere of the law, in the highest sense a gentleman. His study of law began at the Harvard Law School, where he had the benefit of Story's lectures. Without finishing his course there, however, he began practice at Northfield, Massachusetts. Soon he removed to Boston, and rapidly rose in the Suffolk bar. His success was due to the accuracy and range of his knowledge and to the clearness of his statement and argument. He was never eloquent, but a fine presence gave weight to his words. Curtis was a strong man and independent, but so even-tempered and poised that he was never driven from his strictly judicial state of mind. One of his greatest works was the report which he wrote for the Commission of the Massachusetts Legislature, in 1851, upon reforming the procedure of the courts then in vogue. This report was practically embodied in the Practice Act, and the event has proved the quality of the work; for while under the New York Code the New York reports are full of cases on the pleadings, a pleading case is almost unknown in the Supreme Court of Massachusetts. When appointed Associate Justice of the Supreme Court at Washington, Curtis was well chosen in view of the troubled times that followed the compromise of 1850. All of his calmness and independence was put to the test. The Dred Scott case contrasted Curtis and the Chief Justice, much to the advantage of the former. Curtis's dissenting opinion is a model of legal reasoning, and convincing; the Chief Justice missed his mark by committing himself upon the constitutionality of the

Missouri compromise after he had already decided that the court had no jurisdiction over the case, — a kind of dictum never justifiable, highly injudicious in the existing state of politics, and doubly unfortunate in view of the fact that for once in his life Taney was fundamentally mistaken. Curtis kept above the excitement; the Chief Justice in his conscientious support of his own beliefs doggedly allowed his opinions to carry him beyond the case before him. Letters passed between the two in which Taney was decidedly crusty, Curtis always calm and dignified. Not long after this decision Curtis resigned from the bench, the small salary being insufficient for his needs. During the remainder of his life he was the leader of the Boston bar. In the winter of 1872–3 he gave a short course of lectures at the Harvard Law School. When President Johnson was impeached Curtis defended him and procured his acquittal, and afterwards when the President offered him the position of attorney-general he declined the office. Throughout his life honors had little attraction for him; he gave himself calmly and disinterestedly to the higher pursuit of the law.

RECENT CASES.

AGENCY — HIRING OUT SERVANTS. — Defendants, having many workmen in their employ, including plaintiff, hired them out to a contractor engaged in repairing a building. The latter took entire charge of them, but paid their wages to defendants, together with a bonus. Defendants later gratuitously loaned him some appliances to be used in the work. By reason of defects which defendants ought to have known about, but did not, plaintiff was injured. *Held*, that defendants are not liable. *Gagnon* v. *Dana*, 39 Atl. Rep. 982 (N. H.).

There are several cases which hold that where a master temporarily puts his servants entirely under the directions of an independent contractor, whether gratuitously or for hire, he ceases to be liable for their conduct, even though they continue to draw their wages from him. *Murray* v. *Currie*, L. R. 6 C. P. 24; *Murphey* v. *Caralli*, 3 H. & C. 462; *Wood* v. *Cobb*, 13 Allen, 58. There is more doubt who is responsible where property is hired out with the servants which they are to manage. *Laugher* v. *Pointer*, 5 B. & C. 547. The general rule applied in the cases first cited is founded in good sense, and its application, as in the principal case, to release the former master from his duty to the servants to furnish safe appliances, is demanded by logic and justice.

AGENCY — PARTIES TO A PROMISSORY NOTE. — A promissory note payable to the order of a bank was indorsed by the cashier in the form: "A. B., Cashier." *Held*, that the indorsee can maintain an action against the bank on the note. *Arnold* v. *Swenson*, 44 S. W. Rep. 870 (Tex., Civ. App.).

In the indorsement or making of a bill or note by an agent, it is the general rule that the name of the principal shall appear. It must also be indicated that the agent acted in behalf of the principal. *Rice* v. *Gove*, 22 Pick. 158. This rule arises from the negotiable character of bills and notes. They pass from hand to hand, and must not be ambiguous. The principal case illustrates an exception to this rule, and is, on grounds of expediency, settled law. By commercial understanding banks are known to carry on business in the names of their cashiers. The cashier's name is in fact an *alias* for the bank. *Bank of State of N. Y.* v. *Muskingum, etc. Bank*, 29 N. Y. 619. It seems, however, that no decision has yet gone so far as to hold effectual a signature in the name of the cashier without some designation of his office. 1 Morse, Banks, § 158.

AGENCY — RESPONDEAT SUPERIOR. — *Held*, that a public charitable hospital which does no business for profit is not liable for the negligence of its servants, provided it has used due care in their selection. *Ward* v. *St. Vincent's Hospital*, 52 N. Y. Supp. 466 (Sup. Ct., Trial Term, Part Four). See NOTES.